



Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff-Appellee,*

**G.R. No. 191267**

Present:

CARPIO, J.,  
*Chairperson,*  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

- versus -

Promulgated:

**MONICA MENDOZA Y TRINIDAD,**  
*Accused-Appellant.*

JUN 26 2013 *AW Cabalag Project*

X ----- X

**DECISION**

**PEREZ, J.:**

This is an appeal by Monica Mendoza y Trinidad (accused-appellant) from the Decision<sup>1</sup> dated August 28, 2009 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03426. The CA affirmed the Decision<sup>2</sup> rendered by the Regional Trial Court (RTC), Branch 64, Makati City in Criminal Case

<sup>1</sup> Penned by Associate Justice Isaias Dicdican, with Associate Justices Remedios A. Salazar-Fernando and Romeo F. Barza, concurring. *Rollo*, pp. 97-115.

<sup>2</sup> Penned by Judge Gina M. Bibat-Palamos. *Id* at 52-57.

Nos. 04-2068 and 04-2069 convicting accused-appellant of violating Sections 5 and 11 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

The two separate informations filed against accused-appellant read thus:

Criminal Case No. 04-2068:

“That on or about the 15<sup>th</sup> day of May 2004 in the City of Makati, Metro Manila, Philippines, and a place within the jurisdiction of this Honorable Court, the above-named accused, without being authorized by law, did then and there willfully, unlawfully and feloniously sell, distribute and transport Methamphetamine Hydrochloride (shabu), weighing zero point zero three (0.03) gram, which is a dangerous drug, in consideration of two hundred (Php200.00) pesos, in violation of the above-cited law.”

Criminal Case No. 04-2069:

“That on or about the 15<sup>th</sup> day of May 2004 in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, without corresponding license or prescription, did then and there willfully, feloniously have in his possession, direct custody and control zero point zero eight (0.08) gram of Methamphetamine Hydrochloride (shabu), which is a dangerous drug, in violation of the above-cited law.”

After arraignment and pre-trial were conducted by the trial court, a joint trial on the merits ensued.

The prosecution presented as witnesses PO2 Joseph dela Cruz (PO2 dela Cruz) and PO2 Wilfredo Sangel (PO2 Sangel), both operatives of the Station Anti-Illegal Drugs Special Operations Task Force (SAID-SOTF).

PO2 dela Cruz testified that on May 15, 2004 at about 8:15 in the evening, their confidential informant arrived at their office reporting that a certain alias Monica, who turned out to be accused-appellant, was involved in the rampant sale of illegal drugs along PNR South Compound, Brgy. Pio del Pilar, Makati City. Their Action Officer, SPO4 Arsenio Mangulabnan formed a buy-bust team led by SPO1 Jose Magallanes to effect the arrest of accused-appellant. A briefing was conducted regarding the anti-narcotics operation and PO2 dela Cruz was designated as poseur-buyer. He was tasked to buy Php200.00 worth of *shabu* from accused-appellant. Two (2)

pieces of one hundred peso bills were provided and marked with “AMM” for use in the buy-bust operation. Coordination with the Philippine Drug Enforcement Agency (PDEA) was made and PDEA Control No. 150504-02 was given to the team. The team then proceeded to the area of operation, i.e., at the PNR South Compound, Brgy, Pio del Pilar, Makati City to conduct the buy-bust operation.

PO2 dela Cruz further testified that upon arrival at the said area the informant accompanied him to where accused-appellant was. The rest of the team positioned themselves strategically within the perimeter. Thereafter the informant introduced him to accused-appellant as a person in need of shabu. At this instance, he conveyed his intentions of buying two hundred (Php200.00) pesos worth of *shabu* to accused-appellant. He then gave the Php200.00 pesos buy-bust money to accused-appellant who in turn, gave one plastic sachet containing suspected *shabu* to him. The transaction having been consummated, he then made a motion of giving a high five to accused-appellant which was the pre-arranged signal for the rest of the back-up team. Operations back-up PO2 Sangel then approached the area of transaction, introduced himself as a police officer and placed accused-appellant under arrest. Accused-appellant was apprised of the nature of the arrest and of her constitutional rights.

PO2 dela Cruz continued that at the area of transaction, a search conducted after the arrest which resulted in the recovery of the buy-bust money and five (5) other plastic sachets containing suspected *shabu*. He was just very near PO2 Sangel when the sachets of *shabu* were taken from accused-appellant. He accordingly marked the pieces of evidence recovered from accused-appellant. Likewise marked was the *shabu* subject matter of the sale transaction. Accused-appellant was thereafter brought to the office of the SAID-SOTF, where she was turned over to the investigator on duty. Afterwards, the items seized were brought to the PNOCC Crime Laboratory Office for examination. The laboratory examination on the specimens submitted yielded positive result for the presence of a dangerous drug Methamphetamine Hydrochloride. He maintained that the operation was properly coordinated with the PDEA.

PO2 Sangel corroborated the testimony of PO2 dela Cruz mainly with respect to the buy-bust operation against herein accused-appellant. He declared that he was about seven (7) to ten (10) meters away from the place of transaction. After the pre-arranged signal was given by PO2 dela Cruz, he, together with the team, proceeded to the accused-appellant to arrest her. After accused-appellant was arrested, she was ordered to empty her short pants and five (5) pieces of plastic sachets containing *shabu* were found and

confiscated together with the marked money in the amount of Php200.00. Thereafter, PO2 dela Cruz placed the marking on the seized items at the place of transaction. The accused-appellant was then brought to the SAID-SOTF of the Makati Police for investigation while the seized items were brought to the PNP Crime Laboratory Office for laboratory examination.

Accused-appellant for her part, denied the charges against her. She denied that she was caught selling *shabu* and that she was caught in possession of the same. She maintained that on May 15, 2004 at around 4:00 o'clock in the afternoon, she was at the back of her house at PNR Compound, P. Medina Street, Brgy. Pio del Pilar, Makati City hanging clothes when a kid named Totoy, told her that police officers were looking for her. Upon learning that police officers were looking for her she went home. There she saw PO2 Sangel together with other police officers. She knew PO2 Sangel because her live-in partner would give half of his earnings to his dispatcher the same to be given to PO2 Sangel otherwise, the latter would not allow them to park their vehicles for passengers. She approached PO2 Sangel and asked if they needed something from her. PO2 Sangel told her to go with them. The accused-appellant dressed up and went with the policemen thinking that the reason she was asked to go with them because of the murder case of Jun Riles filed against Jonathan Lesaca and Alfredo Lesaca before the RTC (Branch 138) where she was a star witness.

Accused-appellant was brought to the office of the Drug Enforcement Unit (DEU). At the office of the DEU, Bobot Mangulabnan talked to her. Bobot Mangulabnan told her that she was stubborn as he once told her not to meddle with the case of her friend Jun Riles or else something will happen to her. She was then asked if she knew Edwin Kerabu (Kerabu) and she said she knew him because he was her neighbor. She was asked if she knew where to find Kerabu. She told them that she usually sees this Kerabu in front of the "*binggohan*." Afterwards she was brought to the place where she was referring to.

Accused-appellant was left inside the vehicle for about thirty (30) minutes and thereafter she saw the police officers with Kerabu. He was brought inside the vehicle. There Kerabu was asked if he had *shabu* and he replied that he did not have any. He was frisked and the police officers were able to recover from his pocket white substance suspected to be *shabu*. Accused-appellant and Kerabu were both brought back to the office of the DEU.

At the DEU, accused-appellant Monica Mendoza wanted to go home but she was not permitted by the police officers. She was made to stay and she was surprised that the DEU filed charges against her. She was brought to a place where she underwent drug testing. She was made to urinate in a bottle. After the drug test, she was brought back to the office of the DEU where she was detained. She was then brought to the fiscal's office where she learned of the charges filed against her. At the fiscal's office she was made to sign a document.

The RTC, found the evidence of the prosecution sufficient to prove the guilt of accused-appellant for the crimes charged beyond reasonable doubt. Thus, judgment was rendered as follows:

1. In Criminal Case No. 04-2068, the accused Monica Mendoza y Trinidad is found GUILTY of the charge for violation of Section 5, Article II, R.A. No. 9165 and sentences her to suffer life imprisonment and to pay a fine of FIVE HUNDRED THOUSAND PESOS (P500,000.00);

2. In Criminal Case No. 04-2069, the accused Monica Mendoza y Trinidad is found GUILTY of the charge for violation of Section 11, Article II, R.A. No. 9165 and is hereby sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day as minimum to fourteen (14) years and one (1) day as maximum, pursuant to the Indeterminate Sentence Law and to pay a fine of THREE HUNDRED THOUSAND PESOS (P300,000.00).

Accused-appellant appealed the trial court's decision to the CA, where she raised a lone assigned error, to wit:

“THE TRIAL COURT GRAVELY ERRED IN ADMITTING IN EVIDENCE THE SEIZED DANGEROUS DRUGS DESPITE BEING THE PRODUCTS OF AN UNLAWFUL ARREST”

The CA, in a Decision promulgated on August 28, 2009, dismissed the appeal and affirmed *in toto* the trial court's convictions.

Hence, the present appeal.

Again, accused-appellant interposes the same lone assigned error she raised before the CA.

We dismiss the appeal.

The Court finds the prosecutor's evidence credible and sufficient to convict the accused-appellant of illegal sale of dangerous drugs and possession of the same in violation of Section 5 and Section 11, Article II of Republic Act (RA) No. 9165, of the Comprehensive Dangerous Drugs Act of 2002.

It is significant to reiterate and emphasize that the elements necessary for the prosecution of illegal sale of drugs, like *shabu*, were convincingly established. These are: (1) the identity of the buyer and the seller, the object and consideration, and (2) the delivery of the thing sold and the payment therefor.

What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of *corpus delicti*.<sup>3</sup>

After a thorough and painstaking review of evidence on record, the Court affirms the conviction of accused-appellant. Indeed, the prosecution has presented sufficient proof of her guilt beyond reasonable doubt: that on May 15, 2004, PO2 dela Cruz, the designated poseur-buyer in the buy-bust operation was able to purchase from the accused-appellant 0.03 gram of Methamphetamine Hydrochloride or *shabu*, in consideration of Php200.00 pesos. The buy-bust money was recovered from accused-appellant's possession after she was arrested.

The PNP crime laboratory affirmed that the white crystalline substance contained in the plastic sachet bought from accused-appellant was Methamphetamine Hydrochloride or *shabu*. The plastic sachet marked with "MMT" (which stands for Monica Mendoza y Trinidad) was identified to be the same plastic sachet that he purchased from the accused-appellant. The marking in the said sachet bought from accused-appellant are known to bear the same marking existing in the plastic sachet examined by the forensic chemist. Proof that the plastic sachet bought from accused-appellant and the one delivered from laboratory examination are one and the same.

PO2 dela Cruz gave a detailed account on how the buy-bust operation against accused-appellant took place; that is, from the initial transaction to the eventual delivery of the *shabu*.

<sup>3</sup> *People of the Philippines v. Bernardo F. Nicolas*, G.R. 170234, February 8, 2007, 515 SCRA 188; *People of the Philippines v. Jason Curillon Hambora*, G.R.198701, December 10, 2012, 687 SCRA 653.

Accused-appellant alleged that the trial court erred in appreciating the evidence presented by the prosecution as they were seized as a result of an unlawful arrest. She insists that a valid warrant should have been secured first before they proceeded to arrest her.

This argument is totally faulty and is without even an iota of credibility. The warrantless arrest conducted on accused-appellant was valid. Section 5, Rule 113 of the Rules of Criminal Procedure enumerates the situations when a person may be arrested without a warrant, thus:

“SEC. 5. *Arrest without warrant; when lawful.* - A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgement or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.”

Paragraph (a) of Section 5, is commonly known as an *in flagrante delicto* arrest. For a warrantless arrest of an accused caught *in flagrante delicto* to be valid, two requisites must concur: (1) the person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and (2) such overt act is done in the presence or within the view of the arresting officer.<sup>4</sup>

In the instant case, the prosecution completely and fully established that accused-appellant was arrested *in flagrante delicto*.

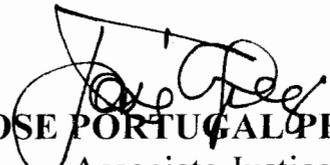
At any rate, accused-appellant failed to raise any objection to the manner of her arrest before arraignment. In fact, she participated in the trial. She even took the witness stand and testified in her own behalf. She is now estopped from assailing the legality of her arrest as she waived any irregularity, if any, that may have tainted her arrest.

<sup>4</sup> *People v. Laquiro, Jr.*, G.R. 128587, March 16, 2007, 518 SCRA 393; *Zalameda v. People*, G.R. 183656, September 4, 2009, 598 SCRA 537.

Significantly, the proof of an *in flagrante delicto* arrest, removes whatever credibility there may have been about the testimony of the accused-appellant of the alleged circumstances that made her go with the police to the DEU unit. Her version that she was a frame-up victim cannot stand against the testimony of the police, supported by evidence of *corpus delicti*.

**WHEREFORE**, in view of the foregoing, the Decision appealed from, finding accused-appellant Monica Mendoza guilty beyond reasonable doubt for violation of Sections 5 and 11, Article II of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is hereby **AFFIRMED**.

**SO ORDERED.**

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**WE CONCUR:**

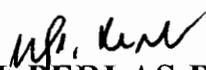
  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ARTURO D. BRION**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**A T T E S T A T I O N**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARIPIO**  
Associate Justice  
Second Division, Chairperson

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice